

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 17439 of 2006

DATED: 22.11.2006

Between:

R.Prasad Kumar

petitioner

And

APSRTC,
Rep by its Managing Director,
Musherabad, Hyderabad and another

Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

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WRIT PETITION NO. 17439 OF 2006

ORAL ORDER:

The present writ petition is filed questioning the proceedings dated 29.6.2006 rejecting the claim of the petitioner for grant of special grade increment on the ground that he has not put in 12 years service in any category.

The facts in brief, which lead to filing of the present writ petition are as under:

The petitioner was initially appointed as Khalasi/shramik on 28.12.1990 in the respondent corporation and his services were regularized in the said category on 28.12.1990. In the year 1995, the respondent corporation issued a notification for appointment to the post of "Ward-boy" in the Medical Department. It is mentioned in the said notification that the past service would be protected under Regulation 7 of the Service Regulations, 1964 with same pay scale. The petitioner was selected for the post of "Ward-boy" and appointed as "Ward-boy" on 11.5.1996 and discharging his duties as such. The grievance of the petitioner is that his past service and pay was protected and in terms of circular PD 65 of 1989 dated 3.6.1989 he is entitled to special grade increment on completion of 12 years service in the respondent corporation. The request of the petitioner for grant of special grade was rejected by the impugned proceedings on the ground that the petitioner has not put in 12 years of service in any category. Hence, the present writ petition.

A counter affidavit was filed on behalf of the respondents by the Law Officer of the respondent corporation *inter-alia* stating that the petitioner was initially appointed on 26.12.1990 as Khalasi and thereafter he was appointed as ward-boy on 11.5.1996 duly protecting his past service under Regulation 7A of Service Regulations, 1964 and posted to Hindupur. It is stated that though the post of shramik and ward-boy carry same scale of pay, the nature of duties and the

promotion channels are different for the said category of posts. That the services rendered by the petitioner in two categories cannot be clubbed and taken into account for the purpose of counting his service for grant of special grade scale.

Heard the learned counsel for petitioner and learned Standing Counsel for respondent corporation.

It is the admitted case of the respondent that the petitioner was appointed as ward-boy w.e.f. 11.5.1996 in medical department duly protecting his past service under Regulation 7A of Service Regulations, 1964 and that the pay scale of shramik and ward-boy are same.

The case of the petitioner for special grade was rejected only on the ground that the nature of duties and promotion channels for the post of Shramik and the Ward-boy are different and the petitioner has not put in 12 years service in any post. The circular PD –65 /89 dated 3.6.1989 indicate that the employees who have put in more than twelve years of service in the same category of post shall be placed on the corresponding scale. The circular further indicate that all service including the service put in under Regulation 17 or Regulation 30 (but not on casual basis) shall be counted for computing twelve years of service in the same post. There is no restriction in the circular to deny the special grade on the ground that the nature of services rendered in a particular category are different. In the present case, while appointing the petitioner as ward-boy his past service was protected under Regulation 7 of the Service Regulations, 1964 and he is drawing the same scale as that of Shramik.

In the absence of any specific bar or restriction to the effect that if the nature of duties are different the benefit under the circular cannot be granted, it cannot be said that the petitioner is not entitled to stagnation grade scale, more particularly when the petitioner's past service was protected and he is drawing the same pay scale as that of Shramik, which post he was holding earlier.

At this stage, learned Standing Counsel for respondent corporation submitted that in terms of the judgment of Division Bench of this Court in W.A. No. 2151 of 2005 dated 22.8.2006, the employees are entitled to the monetary benefit only from 1.4.2005, but not prior thereto.

For the afore said reasons, the impugned order dated 29.6.2006 is liable to be set aside and the same is hereby set aside. The

respondents are directed to pay stagnation increment to the petitioner as per the circular and the judgment of this Court in W.A No. 2151 of 2005 dated 22.8.2006.

Accordingly, the writ petition is disposed of. No costs.

N.V.RAMANA,J

DATE: 22-11-2006
TVK

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